

Submitted March 10, 2012
Approved as of
Date March 10, 2012

**MINUTES OF THE ROCKVILLE BOARD OF APPEALS
MEETING NO. 02-12
Saturday, February 11, 2012**

The City of Rockville Board of Appeals convened in regular session in the Mayor and Council Chambers at 9:30 a.m., Saturday February 11, 2012.

PRESENT

Steven Wilcox, Chair
Peter Mork
W. Thomas Curtis, Alternate

Absent: Stephen Ravas

Present: Jim Wasilak, Chief of Planning
Bobby Ray, Principal Planner
Cas Chasten, Planner III
Nicole Walters, Planner II

I. PUBLIC HEARING

- A. Zoning Variance Application VAR2012-00031, Shelter Development, LLC, for Hazel Cavallo** – a variance request from the height limit restriction applicable to a fence located in the front yard abutting an arterial roadway. Property located at 2997 Glenora Lane, Rockville, Maryland 20850. Subject property located in the R-90 Zone.

Cas Chasten presented the variance application.

Carmen Gilmore of Shelter Development, LLC, spoke on behalf of the owner of the property, Mrs. Hazel Cavallo.

Dr. Mork moved, seconded by Mr. Curtis, to accept variance VAR2012-00031, to approve a two foot height variance for an 8-foot fence for the reasons stated in the staff report. The motion passed on a vote of 3-0.

- B. Special Exception Application SPX2012-00384, Craig Moloney** – a special exception request to formally establish a two bedroom accessory apartment in a recently constructed home addition at 520 Anderson Avenue, Rockville, Maryland 20850. Subject property located in the R-60 Zone.

Nicole Walters presented the special exception report and recommendation, adding that Mr. Moloney has requested a waiver from the school capacity test of the APFO requirement.

Mr. Moloney, owner of the property, spoke on his own behalf and addressed questions from the Board.

Dr. Mork moved, seconded by Mr. Curtis, to accept Special Exception SPX2012-00384, for the reasons indicated in the staff report, and subject to the conditions provided in the staff report; however, modifying Condition #6 to read: "The owner/applicant must comply with all applicable regulations governing accessory apartments and must seek a modification to this special exception before licensing the unit or rental." The motion passed on a vote of 3-0.

- C. Waiver Application VAR2012-00028, Cricket Communications** – a waiver request from the 19 foot height limit applicable to wireless communications facilities attached to an existing structure or the roof or side of a building. Property located at 1251 W. Montgomery Avenue, Rockville, Maryland 20850. Subject property located in the MXE Zone.

Mr. Chasten presented the waiver application.

Sean Hughes spoke on behalf of Cricket and presented his overview of the project. He introduced Camille ShabShab, Civil Engineer for Cricket, to provide expert witness testimony.

Mr. Curtis moved, seconded by Dr. Mork, to waive the requirement for expert witness testimony and accept the resume of Mr. ShabShab, who was presented as an expert witness. The motion passed on a vote of 3-0.

Mr. C.J. Yang, Radio Frequency Engineer for Cricket spoke on the frequency coverage.

Mr. Curtis moved, seconded by Dr. Mork to accept Staff's report and the findings: 1) that it would impose an undue hardship on the provider and 2) they deserve the same judgment as the other carriers that have co-located.

Dr. Mork amended the motion and moved to accept VAR2012-00384, for a height waiver for the reasons stated in the staff report, specifically that not granting this waiver would impose undue hardship and that not granting this waiver would

create discrimination to providers. Mr. Curtis accepted the amendment. The motion passed on a vote of 3-0.

II. NEW BUSINESS

The Board of Appeals will hear a request for reconsideration of Variance VAR2012-00029, 1208 Allison Drive, on Thursday, February 16, 2012 at 7:00 p.m.

III. OLD BUSINESS

No old business.

IV. MINUTES

Dr. Mork moved, seconded by Dr. Wilcox, to approve the minutes from the meeting of Saturday, October 15, 2011 as written. The motion passed on a 2-0 vote, with Mr. Curtis abstaining, as he was not a member of the Board.

Dr. Mork moved, seconded by Dr. Wilcox, to approve the minutes from the meeting of Saturday, January 14, 2012 as written. The motion passed on a 2-0 vote with Mr. Curtis abstaining.

V. FYI INFORMATION

Staff introduced Councilmember Tom Moore as the new Board of Appeals Mayor and Council Liaison.

Dr. Mork informed the Board and Staff that he is serving on the Citizen's Implementation Committee as a representative for the City of Rockville Board of Appeals

Mr. Wasilak informed the Board that Mr. Ravas will be in attendance for the Thursday meeting. He also informed the Board of a future work session by the Planning Commission on the APFO Committee Report.

VI. ADJOURN

There being no further business to come before the Board, the Chair adjourned the meeting at 11:41 a.m.

Respectfully Submitted

Sandra Y. Driver, Commission Secretary